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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,437	07/21/2003	William Louis Scherff	714595.114	1436
27128	7590	07/29/2005	EXAMINER	
BLACKWELL SANDERS PEPER MARTIN LLP			KATCHEVES, BASIL S	
720 OLIVE STREET			ART UNIT	
SUITE 2400			PAPER NUMBER	
ST. LOUIS, MO 63101			3635	

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,437

Applicant(s)

SCHERFF, WILLIAM LOUIS

Examiner

Basil Katcheves

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/1/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This new rejection of pending claims 1-28 is necessitated by new prior art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 13-17, 20, 23, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,431,355 to Junemann.

Regarding claims 1, 4, 5, 6, 9, 10, 13, 14, 15, 16, 17, 23, Junemann discloses a fastener for a vehicle body (abstract) molding having a body and a distal end (fig. 3: where 10 points) and a proximal end (fig. 3: where 8 is positioned), the distal end has two flexible bend points (fig. 3: 6) aligned with each other, the body having an opening which passes through the length of the fastener and a second opening (fig. 4: area where 8 points) which extends transversely through the first opening and the sides of the body, the second opening defining flexible detents (fig. 3: 9) which are aligned together. The sidewalls being tapered and defining tapered barbs.

Regarding claim 2, 7, Junemann discloses the body as being attached to a molding (fig. 5).

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Regarding claims 3, 8, Junemann discloses the body as being flexible and resilient (fig. 5).

Regarding claim 20, Junemann discloses tapered sidewalls (fig. 3) which have tapered barbs (9).

Regarding claim 27, Junemann discloses the inner end circumference of the distal end (6) as being concave shaped.

Regarding claim 28, Junemann discloses the outer circumference of the distal end (6) as being convex.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12, 18, 19, 21, 22, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,431,355 to Junemann in view of U.S. Patent No. 6,209,175 to Gershenson.

Regarding claim 11, 18, Junemann discloses a fastener for a vehicle body (abstract) having a body and a distal end (fig. 3: where 10 points) and a proximal end (fig. 3: where 8 is positioned), the distal end has two bend points (fig. 3: 6) aligned with

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each other, the body having an opening which passes through the length of the fastener and a second opening (fig. 4: area where 8 points) which extends transversely through the first opening and the sides of the body, the second opening defining flexible detents (fig. 3: 9). Junemann does not disclose the body portion as being hexagonal.

Gershenson discloses a fastener with a hexagonal body (column 6, lines 13-16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Junemann by making the head hexagonal, as disclosed by Gershenson, in order to fit holes of different dimensions and also for aesthetic purposes.

Regarding claim 12, 21, 22, Junemann discloses a fastener for a vehicle body (abstract) having a body and a distal end (fig. 3: where 10 points) and a proximal end (fig. 3: where 8 is positioned), the distal end has two bend points (fig. 3: 6) aligned with each other, the body having an opening which passes through the length of the fastener and a second opening (fig. 4: area where 8 points) which extends transversely through the first opening and the sides of the body, the second opening defining flexible detents (fig. 3: 9). However, Junemann does not disclose the body portion as being hexagonal. Gershenson discloses a fastener with a hexagonal body (column 6, lines 13-16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Junemann by making the head hexagonal, as disclosed by Gershenson, in order to fit holes of different dimensions and also for aesthetic purposes.

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Regarding claim 19, Junemann discloses a tapered second opening (fig. 3: see opening adjacent number 10).

Claims 24-26, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,431,355 to Junemann.

Regarding claims 24-26, Junemann discloses the basic claim structure of the instant application but does not disclose specific ratios of lengths to widths. Applicant fails to show criticality for specifically claimed ratios, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims for use in particular applications where molding is thicker or thinner, or where increased strength is required.

Response to Arguments

Applicant's arguments filed 5/2/05 have been fully considered but are moot under new grounds of rejections.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to fasteners in general.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK


Basil Katcheves

7/27/05

Examiner AU 3635